

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TESLA, INC.,

Plaintiff,

v.

CAP-XX, LTD.,

Defendant.

Case No. 2:23-cv-00334-JRG

DEMAND FOR JURY TRIAL

**TESLA, INC.'S ANSWER AND AFFIRMATIVE DEFENSES
TO CAP-XX, LTD.'S COUNTERCLAIMS**

Plaintiff Tesla, Inc. ("Plaintiff" or "Tesla"), by and through its attorneys, submits this Answer to Defendant CAP-XX, Ltd.'s ("Defendant" or "CAP-XX") counterclaims, Dkt. 11.

Except as expressly admitted below, Tesla denies each allegation in the Counterclaims.

PARTIES

1. Tesla admits that CAP-XX is an Australian company. Tesla otherwise lacks sufficient information with which to admit or deny the remaining allegations of paragraph 1 and therefore it denies them.

2. Tesla admits the allegations of Paragraph 2.

JURISDICTION AND VENUE

3. Tesla admits the allegations of Paragraph 3.

4. For purposes of this action, Tesla admits the allegations of Paragraph 4.

5. For purposes of this action, Tesla admits the allegations of Paragraph 5.

6. Tesla admits the allegations of Paragraph 6.

7. Tesla admits it is currently the owner of the entire right, title, and interest of United States Patent Nos. 8,279,580 (“the ’580 patent”) and 8,591,601 (“the ’601 patent”) (collectively, the Asserted Patents”).

8. Tesla admits that CAP-XX appears to desire a judicial determination of its rights and duties with respect to its infringement of the Asserted Patents.

9. Tesla denies the allegations of Paragraph 9.

10. Tesla admits the allegations of Paragraph 10.

11. Tesla admits that CAP-XX emailed a letter on August 22, 2023, to Tesla’s outside counsel. Tesla denies the remaining allegations of Paragraph 11.

**CAP-XX’S FIRST COUNTERCLAIM
(DECLARATION OF NONINFRINGEMENT OF THE ’580 PATENT)**

12. Tesla incorporates by reference each of the preceding paragraphs 1-11 as if fully set forth herein.

13. Tesla denies the allegations of Paragraph 13.

14. Tesla admits that CAP-XX appears to desire a judicial determination of its rights and duties with respect to its infringement of the Asserted Patents.

**CAP-XX’S SECOND COUNTERCLAIM
(DECLARATION OF INVALIDITY OF THE ’580 PATENT)**

15. Tesla incorporates by reference each of the preceding paragraphs 1-14 as if fully set forth herein.

16. Tesla denies the allegations of Paragraph 16.

17. Tesla admits that CAP-XX appears to desire a judicial determination of its rights and duties with respect to its infringement of the Asserted Patents.

CAP-XX'S THIRD COUNTERCLAIM
(DECLARATION OF NONINFRINGEMENT OF THE '601 PATENT)

18. Tesla incorporates by reference each of the preceding paragraphs 1-17 as if fully set forth herein.

19. Tesla denies the allegations of Paragraph 19.

20. Tesla admits that CAP-XX appears to desire a judicial determination of its rights and duties with respect to its infringement of the Asserted Patents.

CAP-XX'S FOURTH COUNTERCLAIM
(DECLARATION OF PATENT INVALIDITY OF THE '601 PATENT)

21. Tesla incorporates by reference each of the preceding paragraphs 1-20 as if fully set forth herein.

22. Tesla denies the allegations of Paragraph 22.

23. Tesla admits that CAP-XX appears to desire a judicial determination of its rights and duties with respect to its infringement of the Asserted Patents.

PRAYER FOR RELIEF

Tesla denies that CAP-XX is entitled to any relief against Tesla. To the extent CAP-XX's prayer for relief is interpreted to contain any factual allegations, Tesla denies them.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE
(FAILURE TO STATE A CLAIM)

The Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE
(FAILURE TO STATE A CLAIM FOR AN EXCEPTIONAL CASE)

The Complaint fails to state a claim for an exceptional case under 35 U.S.C. § 285.

Dated: October 17, 2023

FISH & RICHARDSON P.C.

By: /s/ Daniel R. Gopenko

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on October 17, 2023 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ Daniel R. Gopenko

Daniel R. Gopenko